

REMARKS/ARGUMENTS

Status of Claims

Claims 1-64 were filed in the present application. These claims have been subjected to a restriction requirement. Claims 1-56 have been withdrawn from consideration as drawn to a non-elected invention. As outlined above, Claims 57 and 60 have been amended; Claims 58, 59, 61 and 64 have been canceled; and no new Claims have been added. Therefore, Claims 1-57, 60, 62, and 63 are pending in this application, however, only Claims 57, 60, 62 and 63 are currently under consideration.

The amended claims are fully supported in the specification as originally filed. In particular, the newly added language in Claims 57 and 60 is supported in original claim 60 and in the specification at page 23, lines 18-25.

Claim Rejections – 35 USC 101

Claims 57-64 stand rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter. The Office indicates that Claim 57 fails to recite a particular machine or apparatus used to perform the steps of the recited method. Dependent claims 58-64 contain similar deficiencies and fail to correct the deficiencies of claim 64, and are therefore also rejected. Applicants respectfully traverse this rejection.

Applicants respectfully note the recent Supreme Court ruling with respect to *Bilski* case. Applicants note that the Supreme Court did not uphold the “machine or transformation requirement”. Therefore, Applicants respectfully submit that this rejection is improper and respectfully request withdrawal of the rejection.

Claim Rejections – 35 USC 102

Claims 57, 60, 62 and 63 stand rejected under 35 USC 102(b) as being anticipated by United States Patent 6,039,688 to Douglas et al. (“Douglas”). Applicants respectfully traverse this rejection.

As amended, the present invention provides a method of providing a personalized wellness program to a customer in a retail shopping environment. The method includes

a) obtaining personal information from a customer; b) obtaining objective information from the customer ; c) using the personal information and the objective information to create a personalized wellness program for the customer; and d) providing the personalized wellness program to the customer. The objective information from the customer includes a psychometric stress measurement, and the personalized wellness program includes a recommendation for a product, service, or activity to improve the customer's stress measurement.

Douglas purports to disclose a therapeutic behavior modification program, compliance monitoring and feedback system. The system enables development of a therapeutic behavior modification program having a series of milestones for an individual to achieve lifestyle changes necessary to maintain his or her health or recover from ailments or medical procedures. The system monitors the individual's compliance with the program by prompting the individual to enter health-related data, correlating the individual's entered data with the milestones in the behavior modification program and generating compliance data indicative of the individual's progress toward achievement of the program milestones.

The office action indicates that Douglas teaches obtaining a stress measurement from the customer (referencing Col. 6, line 58, through Col. 7 line 5). Applicants respectfully submit that the reference is vague as it merely mentions "stress levels" among a list of "other baseline characteristics" including smoking, physical activity, alcohol and eating habits, depression, seat belt use, etc. There is no specific stress measurement taught or described in this reference. Douglas certainly fails to teach obtaining psychometric stress measurements. Therefore, Applicants respectfully submit that the presently claimed invention is novel and request withdrawal of this rejection.

Claim Rejections – 35 USC 103

Claims 58, 59, 61 and 64 stand rejected under 35 USC 103(a) as being unpatentable over Douglas in view of Kirschbaum, Clemens et al. "Salivary Cortisol in

Psychobiological Research: An Overview", *Neuropsychobiology* 1989 pp 150-169
("Kirschbaum"). Applicants have canceled these claims, rendering this rejection moot..

Applicants believe that the foregoing presents a full and complete response to the outstanding Office Action. Applicants look forward to an early notice of allowance for this application.

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